

In re Patent Application of  
Giampa

Serial No. 10/068,285

### REMARKS

The Advisory Action indicated that the previously filed proposed amendment would not be entered because it raised new issues that would require further consideration and/or searching. As noted in our phone conference, Applicant only accepted the allowed claims and canceled the non-allowed claims. Therefore, no new issues were raised that would require further search or consideration.

On page 2 of the Advisory Action, the Examiner indicated that the proper claim identifier had not been used for subject matter that was previously amended. Applicant has revised the claim identifiers in this response to the Advisory Action to include the correct claim identifiers.

On page 2 of the Advisory Action, the Examiner also indicated that Applicant should review U.S. Patent No. 6,682,593 issued to Burch (hereinafter "Burch") and 6,589,442 issued to Wilson (hereinafter "Wilson") stating that these patents appear to be pertinent to claims 3 - 16. Burch does not appear to be prior art to the current application, which was filed on February 5, 2002, nor has it been made the basis of a rejection. With respect to Wilson, Applicant respectfully submits that Wilson has not been made the basis of a rejection, but has merely been identified as pertinent to certain claims. Applicant has not been provided with any basis for rejection or identification for rejection. In view of an absence of a rejection, Applicant believes this comment by the Examiner regarding Wilson was made to identify the state of the art in a related field.

### SUMMARY

Applicant respectfully submits that all issues raised by the Examiner have been addressed. Although it is Applicant's opinion that the present invention is patentably distinct from the emulsions described in Burch and Wilson, in the event that the Examiner is not satisfied as to the patentability of the present invention when compared with Burch and Wilson, Applicant respectfully submits that these references raise new issues related to patentability that have only recently been raised by the Examiner and were not the result of actions by Applicant. Furthermore, no basis for rejection was stated relating to the newly cited art. Thus, Applicant respectfully requests that the finality of the last office action be removed.

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The Commissioner is hereby authorized to charge all fees and any additional fees that may be required or credit any overpayment to Bracewell & Patterson, L.L.P. Deposit Account No. 50-0259 (Order No. 25581.002). Should further discussion regarding the application be desired by the Examiner, a telephone conference is respectfully requested. Constance Rhebergen can be reached at (713) 221-3306 and Kimberly Brown can be reached at (713) 221-1189.

Date: 7/26/04

Respectfully submitted,



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